

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

HERMAN NOBLE,

Defendant-Appellant.

UNPUBLISHED

June 28, 2005

No. 252734

Wayne Circuit Court

LC No. 03-007800-02

Before: O’Connell, P.J., and Schuette and Borrello, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of one count of delivery of less than fifty grams of heroin, MCL 333.7401(2)(a)(iv). Defendant appeals as of right. We affirm.

Defendant asserts that there was insufficient evidence for a jury to conclude that he had transferred heroin to another person. Specifically, defendant contends that the prosecution’s only evidence of delivery, a police sergeant’s testimony that he personally observed the transfer, was unworthy of belief. Defendant cites inconsistencies between the sergeant’s testimony and that of a defense witness, and also points to internal inconsistencies in the sergeant’s testimony itself.

Viewing all evidence in a light most favorable to the prosecution, this Court reviews challenges to the sufficiency of the evidence to determine whether a rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt. *People v Hoffman*, 225 Mich App 103, 111; 570 NW2d 146 (1997). Special deference is given to the jury’s superior opportunity to evaluate a witness, and jury assessments regarding the weight and credibility of trial testimony will not be resolved anew on appeal *People v Johnson*, 460 Mich 720, 731; 597 NW2d 73 (1999).

Here, the police sergeant testified that he observed defendant deliver a small bottle containing suspected narcotics to another person. That bottle was later found to contain heroin. While the jury was free to assign less weight to the sergeant’s testimony on the basis of the inconsistencies cited by defendant, it was also free to believe the sergeant’s testimony in spite of those inconsistencies. “Juries, not appellate courts, see and hear witnesses and are in a much better position to decide weight and credibility to be given to their testimony.” *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992). Viewed in a light most favorable to the prosecution, the evidence presented was sufficient to support a finding that defendant had delivered heroin to another person.

Affirmed.

/s/ Peter D. O'Connell

/s/ Bill Schuette

/s/ Stephen L. Borrello